

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RICHARD E. ENYART, JR.,

Plaintiff,

vs.

Civil Action 2:09-CV-687
Judge Smith
Magistrate Judge King

SHERIFF JIM KARNES, et al.,

Defendants.

OPINION AND ORDER

Plaintiff, a state inmate proceeding without the assistance of counsel, brings this action under 42 U.S.C. § 1983, alleging that he was denied due process while detained in the Franklin County Jail.¹ This matter is before the Court on *Plaintiff's Motion for Order Compelling Disclosure & Discovery*, Doc. No. 111 ("*Motion to Compel*"), which seeks to compel response to discovery requests that "were filed with the court" on April 29, 2011. *Motion to Compel*, p. 1 (citing Doc. No. 99 and Doc. No. 100).

The *Motion to Compel* is not well-taken. First, plaintiff's interrogatories, Doc. No. 100, are directed to Franklin County, which was dismissed as a defendant on June 8, 2011. *Opinion and Order*, Doc. No. 112. Second, plaintiff's document requests were filed with the

¹After performing an initial screen of the *Complaint*, Doc. No. 2, the Court determined that plaintiff's action could proceed on this claim. *Order*, Doc. No. 5.

Court on April 28, 2011² and plaintiff certifies that they were served on defense counsel on the same day. Doc. No. 99, p. 3. However, it does not appear that the remaining defendants, Mandy Miller, Dan Waldren and Daniel Thacker (collectively, "remaining defendants"), had been effectively joined as parties at the time that the requests were served. See *Order and Report and Recommendation*, Doc. No. 96 (directing the Clerk's Office to effect service of process by ordinary mail, consistent with S.D. Ohio Civ. R. 4.2(c), on defendants Miller, Thacker and Waldren); *Certificate of Mailing By Clerk*, Doc. No. 97 (certifying that a copy of the *Amended Complaint* was sent by regular mail to these three defendants on April 27, 2011). Indeed, plaintiff concedes that he has not yet obtained service of process on defendant Thacker. See Doc. No. 120. Accordingly, plaintiff cannot compel the current defendants to respond to discovery requests that were served before they were parties to this action.

WHEREUPON, *Plaintiff's Motion for Order Compelling Disclosure & Discovery*, Doc. No. 111, is **DENIED**.

September 19, 2011

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

²The Court ordered that these and other discovery requests be stricken from the record as they were not filed in connection with a discovery-related motion. *Order*, Doc. No. 103.